



General Assembly

Substitute Bill No. 971

January Session, 2013



AN ACT CONCERNING A MODERN METHOD OF FORECLOSURE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 49-24 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2013*):

3 All liens and mortgages affecting real property may, on the written
4 motion of any party to any suit relating thereto, be foreclosed by (1) a
5 decree of sale instead of a strict foreclosure at the discretion of the
6 court before which the foreclosure proceedings are pending, or (2) if
7 the property affected is real property containing any building or
8 structure that is the principal residence of the mortgagor and that is
9 occupied or intended to be occupied by not more than four families, a
10 decree of market sale in accordance with the provisions of section 2 of
11 this act and sections 49-26 and 49-27, as amended by this act.

12 Sec. 2. (NEW) (*Effective October 1, 2013*) (a) Any party to a
13 foreclosure action may file a motion for a foreclosure by market sale.
14 Such motion shall include the moving party's proposed marketing
15 plan to market the property. The court, if it approves the marketing
16 plan, shall grant such motion and issue a decree fixing a date, not
17 earlier than one hundred twenty days from the date of granting such
18 motion, for the receipt by the mortgagor, as defined in section 49-8a of
19 the general statutes, of a written offer to purchase the property being
20 foreclosed. A proposed marketing plan (1) may include listing the

21 property for sale with a person licensed under chapter 392 of the
22 general statutes, provided such plan includes the proposed
23 compensation to be paid to such person, (2) shall describe the
24 advertisement to be performed for purposes of marketing the property
25 and the proposed cost of such advertisement, (3) shall require that all
26 offers received by the mortgagor be provided to the court as soon as
27 possible after such offers have been received and prior to the date the
28 court fixes for the presentation of an offer to the court and be subject to
29 the approval of the court, and (4) shall include a copy of a certified
30 appraisal of the property to be performed by the mortgagee.

31 (b) Upon the receipt of a written offer, the court, after a hearing,
32 shall determine whether it is in the best interests of the parties to the
33 foreclosure to approve such offer. The court shall not reject an offer
34 solely on the basis that the offer contains contingencies for mortgage
35 financing or building or other inspections of the property but may
36 consider the absence of contingencies to an offer in deciding which of
37 several competing offers is in the best interests of the parties. The court
38 may extend the deadline for the receipt or presentation of an offer set
39 in accordance with subsection (a) of this section upon a finding of good
40 cause shown which includes, but is not limited to, allowing an offeror
41 a reasonable time to meet contingencies set forth in an offer.

42 (c) If no offers are received or are acceptable to the court by the set
43 date fixed for the receipt or presentation of an offer in accordance with
44 subsection (a) of this section, the court may extend such date or issue a
45 decree of sale in accordance with section 49-24 of the general statutes,
46 as amended by this act, or a decree of strict foreclosure.

47 (d) If the court approves an offer, it shall issue a decree ordering a
48 sale date not earlier than forty-five days following the date of such
49 decree by which the offeror shall complete the sale, which date may be
50 extended for good cause shown upon the order of the court. The court
51 shall determine and approve the payment of conveyance taxes,
52 encumbrances having priority over the interests to be foreclosed,
53 marketing expenses, including compensation to persons licensed

54 pursuant to chapter 392 of the general statutes, recording fees and
55 reasonable attorney's fees for the attorney closing the sale for the seller,
56 to be paid from the closing proceeds on the date of closing.

57 Sec. 3. Section 49-26 of the general statutes is repealed and the
58 following is substituted in lieu thereof (*Effective October 1, 2013*):

59 When a sale has been made pursuant to a judgment therefor and
60 ratified by the court, a conveyance of the property sold shall be
61 executed by the person appointed to make the sale, or, in the event of a
62 foreclosure by market sale, by the mortgagors, which conveyance shall
63 vest in the purchaser the same estate that would have vested in the
64 mortgagee or lienholder if the mortgage or lien had been foreclosed by
65 strict foreclosure, and to this extent such conveyance shall be valid
66 against all parties to the cause and their privies, but against no other
67 persons. The court, at the time of or after ratification of the sale, may
68 order possession of the property sold to be delivered to the purchaser
69 and may issue an execution of ejectment after the time for appeal of the
70 ratification of the sale has expired.

71 Sec. 4. Section 49-27 of the general statutes is repealed and the
72 following is substituted in lieu thereof (*Effective October 1, 2013*):

73 The proceeds of each such sale or, in the event of a foreclosure by
74 market sale, the proceeds of such market sale less any expenses for
75 marketing and sale approved in accordance with section 2 of this act,
76 shall be brought into court, there to be applied if the sale is ratified, in
77 accordance with the provisions of a supplemental judgment then to be
78 rendered in the cause, specifying the parties who are entitled to the
79 same and the amount to which each is entitled. If any part of the debt
80 or obligation secured by the mortgage or lien foreclosed or by any
81 subsequent mortgage or lien was not payable at the date of the
82 judgment of foreclosure, it shall nevertheless be paid as far as may be
83 out of the proceeds of the sale as if due and payable, with rebate of
84 interest where the debt was payable without interest, provided, if the
85 plaintiff is the purchaser at any such sale, he shall be required to bring

86 into court only so much of the proceeds as exceed the amount due
87 upon his judgment debt, interest and costs.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	49-24
Sec. 2	<i>October 1, 2013</i>	New section
Sec. 3	<i>October 1, 2013</i>	49-26
Sec. 4	<i>October 1, 2013</i>	49-27

BA *Joint Favorable Subst.*